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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,404	08/15/2003	David B. Link	PREPT-002A	1496
7590	05/05/2004		EXAMINER	
Kit M. Stetina, Esq. STETINA BRUNDA GARRED & BRUCKER Suite 250 75 Enterprise Aliso Viejo, CA 92656			NGUYEN, SON T	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/642,404	<b>Applicant(s)</b> LINK, DAVID B.	
	<b>Examiner</b> Son T. Nguyen	<b>Art Unit</b> 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Son T. Nguyen*  
Prim Exm 3643

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1-23 are objected to because of the following informalities: there appears to be numerous misspelling words and/or grammatically incorrect words in the claims. For example, claim 9, line 2, "includes" should be ---include--- and claim 13, line 2, "sildable" is misspelled. Applicant is encourage to review and correct miscellaneous errors similar to the examples above in all claims. Also, claim 16 seems to be a duplicate of claim 6 with only minor differences due to the function language of "to prevent the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels from being folded outwardly".

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 1-16** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, line 5, "the top wall panels" lacks prior antecedent basis for only one top wall panel was claimed prior to this phrase; in line 13, "fourth side wall panels" lacks prior antecedent basis. Regarding claim 9, line 2, "bottom racks" lacks prior antecedent basis for only one bottom rack was claimed prior to this phrase.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1,2,4-6,8-14,16** are rejected under 35 U.S.C. 102(b) as being anticipated by US 6192834 (herein 834).

For claim 1, 834 discloses an animal enclosure 20 comprising a top wall panel 30; a bottom rack 50; two opposite 1<sup>st</sup> sidewall panels 110,160, each having a top edge hinged to the top wall panel and a bottom edge hinged with the bottom rack at a 1<sup>st</sup> elevation; a 2<sup>nd</sup> sidewall panel 70 disposed between and adjacent to the 1<sup>st</sup> sidewall panels, the 2<sup>nd</sup> sidewall panel having a bottom edge hinged to the bottom rack at a 2<sup>nd</sup> elevation; and a 3<sup>rd</sup> sidewall panel 100 opposite to the 2<sup>nd</sup> sidewall panel and adjacent to the 1<sup>st</sup> sidewall panels, the 3<sup>rd</sup> sidewall panel having a bottom edge hinged to the bottom rack at a 3<sup>rd</sup> elevation; wherein the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> elevations are at different from each other such that the top wall panel, the 1<sup>st</sup>, the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels can be folded stacked with each other on the bottom rack (as shown in fig. 6); and at least one of the 1<sup>st</sup> sidewall panels, the 2<sup>nd</sup> sidewall panel and 3<sup>rd</sup> sidewall panel has a removable door 120 formed thereon.

For claim 2, 834 discloses the 1<sup>st</sup> elevation is higher than the 2<sup>nd</sup> elevation, and the 2<sup>nd</sup> elevation is higher than the third elevation.

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For claim 4, 834 discloses the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels each comprises at least one hook 76 extending through the bottom edges thereof.

For claim 5, 834 discloses the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels each comprises at least one lug 86 extending over the top edge thereof.

For claim 6, 834 discloses the 1<sup>st</sup> sidewall panels further comprises at least one curved wire 98,156 extending from each side edge thereof.

For claim 8, 834 discloses a handle 190 formed on the bottom rack.

For claim 9, 834 discloses the top wall panel, the 1<sup>st</sup>, the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels and the bottom rack include welded wire structures as shown.

For claim 10, 834 discloses the bottom rack includes a bottom wall panel and 4 side portions extending upwardly from the bottom wall panel (as shown and described in col. 3, lines 44-50).

For claim 11, 834 discloses a replaceable tray 28 disposed on the bottom wall panel.

For claim 12, 834 discloses the tray is slidable through one of the side portions (col. 4, lines 35-41).

For claim 13, 834 discloses the side portion through which the tray is slidable includes a latch 66.

For claim 14, 834 discloses the door comprises a latch 130.

For claim 16, see claim 6.

6. **Claims 1-3,6,7,14-18,20-23** are rejected under 35 U.S.C. 102(e) as being anticipated by US 6681720 (herein 720).

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For claim 1, 720 discloses an animal enclosure 20 comprising a top wall panel 22; a bottom rack 24; two opposite 1<sup>st</sup> sidewall panels 30,32, each having a top edge hinged to the top wall panel and a bottom edge hinged with the bottom rack at a 1<sup>st</sup> elevation; a 2<sup>nd</sup> sidewall panel 26 disposed between and adjacent to the 1<sup>st</sup> sidewall panels, the 2<sup>nd</sup> sidewall panel having a bottom edge hinged to the bottom rack at a 2<sup>nd</sup> elevation; and a 3<sup>rd</sup> sidewall panel 28 opposite to the 2<sup>nd</sup> sidewall panel and adjacent to the 1<sup>st</sup> sidewall panels, the 3<sup>rd</sup> sidewall panel having a bottom edge hinged to the bottom rack at a 3<sup>rd</sup> elevation; wherein the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> elevations are at different from each other such that the top wall panel, the 1<sup>st</sup>, the 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels can be folded stacked with each other on the bottom rack (as shown in fig. 13) and at least one of the 1<sup>st</sup> sidewall panels, the 2<sup>nd</sup> sidewall panel and 3<sup>rd</sup> sidewall panel has a removable door 54 formed thereon.

For claim 2, 720 discloses the 1<sup>st</sup> elevation is higher than the 2<sup>nd</sup> elevation, and the 2<sup>nd</sup> elevation is higher than the third elevation.

For claim 3, 720 discloses the 1<sup>st</sup> sidewall panels are hinged to the top wall panel and the bottom rack by a plurality of binder rings 146.

For claim 6, 720 discloses the 1<sup>st</sup> sidewall panels further comprises at least one curved wire 128 (or the curved portion just right above ref. 56 in fig. 2) extending from each side edge thereof.

For claim 7, 720 discloses the bottom rack further comprises a latch 148.

For claim 14, 720 discloses the door comprises a latch 70.

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For claim 15, 720 discloses two of the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> sidewall panels include the removable doors.

For claim 16, see claim 6.

For claim 17, in addition to the above, 720 further discloses the bottom rack having a bottom wall panel and 4 vertical side portions extending upwardly from the bottom wall panels; a first pair of the sidewall panels are foldable towards the bottom wall panel being unlatched with the top wall panel (col. 6, lines 30-45); a 2<sup>nd</sup> pair of the sidewall panels having top edges hinged to the top wall panel and bottom edges hinged to the bottom rack are foldable and stackable relative to each other (col. 6, lines 30-65).

For claim 18, in addition to the above, 720 further discloses one of the vertical side portions comprises a latch 148.

For claim 20, in addition to the above, 720 further discloses the vertical side portion through which the tray is slidable includes a latch 90.

For claim 21, in addition to the above, 720 further discloses the enclosure is rectangular parallelepiped as shown.

For claim 22, in addition to the above, 720 further discloses at least two doors 54,144 are formed.

For claim 23, in addition to the above, 720 further discloses the doors 54,144 are formed on two adjacent sidewall panels.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over 720 (as above) in view of 834 (as above). 834 teaches a handle as described above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a handle as taught by 834 in the enclosure of 720 in order to provide a user with gripping or grabbing area for transporting the enclosure.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen  
Primary Examiner, GAU 3643  
May 3, 2004